UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,258	02/25/2002	Kiran Venkatesh Hegde	DAND0004	3975

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EXAMINER
STORK, KYLE R

ART UNIT	PAPER NUMBER
2178	

NOTIFICATION DATE	DELIVERY MODE
10/15/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptocorrespondence@sbmc-law.com

	Application No.	Applicant(s)
Office Action Summary	10/084,258	HEGDE ET AL.
	Examiner	Art Unit	
	KYLE R. STORK	2178	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>05 August 2010</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-3,5-21 and 23-28</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-3,5-21 and 23-28</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8.5.10</u>.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application.

6)☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-326 (Rev. 08-06)   **Office Action Summary**   Part of Paper No./Mail Date 20101007

DETAILED ACTION

1.   This non-final office action is in response to the amendment filed 5 August 2010.

2.   Claims 1-3, 5-21, and 23-28 are pending. Claims 1, 10, and 16 are independent

claims.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4.   Claims 1-3, 5-15, 23-25, and 28 are rejected under 35 U.S.C. 101 because the

claimed invention is directed to non-statutory subject matter.

As per independent claim 1, the applicant discloses a method. The method

comprises, receiving an indication that a request to access a rich media presentation

has occurred (lines 2-4), detection of attributes (lines 5-8), and selection of a

presentation to be sent to the requesting device (lines 9-14). Although a method is a

statutory process, the claimed method neither provides a specific machine performing

the steps, nor a transformation. Without such a machine or a transformation, the claim

fails to define a statutory process. For this reason, claim 1 is non-statutory.

Claims 2-3, 5-9, 23-24, and 28 fail to cure the deficiencies of the rejected base

claim. For this reason, claims 2-3, 5-9, 23-24, and 28 are rejected.

As per independent claim 10, the applicant discloses "one or more computer-

readable storage media having instructions stored thereon, the instructions comprising

(lines 1-2)" a plurality of instructions (lines 3-14). The claim is directed toward non-

functional descriptive material embodied on a computer-readable medium. The claim

fails to provide a functional interrelation between the instructions stored on the

computer-readable storage medium and a computing process required to perform the

utilization of the instructions, such as a processor. For this reason, claim 10 is non-

statutory.

Claims 11-15 and 25 fail to cure the deficiencies of the rejected base claim. For

this reason, claims 11-15 and 25 are rejected.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

6.   This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

7.   Claims 1-3, 5-7, 9-14, 16-20, and 23-27 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Armstrong et al. (US 6985934, filed 23 October 2000, hereafter

Armstrong), and further in view of Kumar et al. (*The HotMedia Architecture: Progressive

and Interactive Rich Media for the Internet*, June 2001, hereafter Kumar).

As per independent claim 1, Armstrong discloses a method comprising:

detecting one or more attributes of one or both of rich media capabilities

associated with the internet browser or rich media capabilities associated with the

network device (Figure 1B; Figure 3, items 302-303; column 7, lines 44-51: Here, the

server polls the client device, or network device, in order to determine the device's

display capabilities with respect to rich media presentations)

selecting a rich media presentation to be sent to the internet browser from among

a plurality of rich media presentations based on the one or more attributes that are

detected (Figure 1C-1E; Figure 3, items 304-305; column 8, lines 4-19: Here, an

appropriate rich media presentation is selected to be sent to the network device based

upon a pre-established preference ranking defined by the network device)

Armstrong fails to specifically disclose receiving an indication over a network, in

response to a request for access to a rich media presentation by a network device.

However, Kumar discloses receiving an indication over a network, in response to a

request for access to a rich media presentation by a network device (page 261, Section

VI: Here, a client requests the rich media content. In response, the rich media content

and a content player, in the form of code, are distributed to the requesting client)

Armstrong further fails to specifically disclose the presentation package including a viewer configured to view the data of the media package. However, Kumar discloses receiving a request for a presentation (page 261, Section VI) and packaging a viewer configured to view the data within the media package (page 261, Section VI).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Kumar with Armstrong, since it would have allowed a user the advantage of requesting and being able to play rich media content on-demand.

As per dependent claim 2, Armstrong discloses wherein detecting one or more attributes comprises detecting two or more attributes from an operating system attribute, a plug-in attribute, a browser type attribute, a firewall attribute, a monitor setting attribute, a language attribute, a bandwidth attribute or a protocol attribute (column 5, lines 41-62; column 10, lines 17-32: Here, the system may include a communications interface. This communication interface specifies the bandwidth and protocol for transfer of data. Further, as being part of the system, these attributes are detected when the server queries the hardware and software capabilities of the system).

As per dependent claim 3, Armstrong discloses determining when one or both of the internet browser and the network device supports playing the rich media presentation, configuring the rich media presentation based on the detected attributes when a determination is made that playing of the rich media presentation is supported, otherwise, causing a supported presentation to be sent to the internet browser (column 8, lines 4-19).

As per dependent claim 5, Armstrong discloses allowing a client to modify one or more characteristics associated with the rich media presentation (column 9, lines 1-41: Here, a user can modify the characteristics of the presentation, such as turning on/off audio and/or video).

As per dependent claim 6, Armstrong discloses wherein causing the selected rich media presentation to be sent to the network device comprises utilizing an ad serving engine (column 2, lines 4-42).

As per dependent claim 7, Armstrong discloses wherein causing the selected rich media presentation to be sent to the network device comprises utilizing an email serving engine (column 9, lines 23-32).

As per dependent claim 9, Armstrong discloses wherein selecting the appropriate rich media presentation comprises:

selecting a virtual player configured for the network device (column 8, lines 44-67)

selecting a presentation package configured for the network device (Figure 1C-1E; Figure 3, items 304-305; column 8, lines 4-33)

selecting a media package for the network device (Figure 1C-1E; Figure 3, items 304-305; column 8, lines 4-33)

As per claims 10 and 16, the applicant discloses the limitations substantially similar to those in claim 1. Claims 10 and 16 are similarly rejected.

As per claims 11 and 17, the applicant discloses the limitations substantially similar to those in claim 3. Claims 11 and 17 are similarly rejected.

As per dependent claims 12 and 18, Armstrong discloses wherein the rich media presentation is configured to be presented with a banner ad that is selectable to cause an action to be performed (column 1, line 56- column 2, line 42).

As per claims 13 and 19, the applicant discloses the limitations similar to those in claim 6. Claims 13 and 19 are similarly rejected.

As per claim 14 and 20, the applicant discloses the limitations similar to those in claim 7. Claims 14 and 20 are similarly rejected.

As per dependent claim 23, Armstrong further discloses causing the selected rich media presentation to be sent to the internet browser (Figure 1C-1E; Figure 3, items 305-306; column 8, lines 44-50).

As per dependent claims 24, Armstrong further discloses the one or more attributes including at least one of: an operating system type attribute, a plug-in attribute, a browser type attribute, a firewall attribute, a monitor setting attribute, a language attribute, a bandwidth attribute, or a protocol attribute (column 2, lines 22-42; column 5, lines 41-62: Here, one piece of software often contained within a browser for playback of specialized formats such as MPEG, QTF, and AVI are plug-ins. Similarly, the hardware and software capabilities of the network device are determined. This determination step would include determining if plug-ins allowing for playback of formats such as MPEG, QTF, and AVI are installed).

As per dependent claims 25 and 27, the applicant discloses the limitations substantially similar to those in claim 24. Claims 25 and 27 are similarly rejected.

As per dependent claim 26, the applicant discloses the limitations substantially similar to those in claim 23. Claim 26 is similarly rejected.

As per dependent claim 28, Wade discloses detecting an attribute that indicates a media player type for a media player included on the network device (Figure 21, item 152: Here, it is determined whether the media player is compatible with the advertisement presentation). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Wade with Armstrong, since it would have allowed a user to view presentation data.

8.   Claims 8, 15, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armstrong and Kumar and further in view of Crow et al. (US 6262724, application 1999, hereafter Crow).

As per dependent claim 8, Armstrong discloses the limitations similar to those in claim 5, and the same rejection is incorporated herein. Armstrong fails to specifically disclose delivering an image to the device that is displayed on the device at a location relating to the rich media presentation. Crow further discloses the method comprising delivering an image to the device that is displayed on the device at a location relating to the rich media presentation (Figure 4, items 248 and 250: Here, the media source icons are images displayed on the device and the location is related to the corresponding presentation). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Crow with Armstrong, since it would have

allowed a user to view an image representing the presentation prior to displaying the

entire presentation.

As per claims 15 and 21, the applicant discloses the limitations similar to those in

claim 8. Claims 15 and 21 are similarly rejected.

Response to Arguments

9.   Applicant's arguments with respect to claims 1-3, 5-21, and 23-28 been

considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to KYLE R. STORK whose telephone number is (571)272-

4130. The examiner can normally be reached on Monday-Friday (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Stephen Hong can be reached on (571) 272-4124. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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published applications may be obtained from either Private PAIR or Public PAIR.

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kyle R Stork/
Primary Examiner, Art Unit 2178